IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 649 of 2001

In

SPECIAL CIVIL APPLICATION No. 2965 of 2001

with

CIVIL APPLICATION No.7539 of 2001

in

LETTERS PATENT APPEAL No. 649 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT - Appellant(s)

Versus

M A MANAGER - Defendant(s)

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Appearance :

MS.PAURAMI SHETH, ASSISTANT GOVERNMENT PLEADER for

the appellant.

MR NILESH PANDYA FOR MR.SP HASURKAR for Respondent No(s).: 1.

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CORAM :HONOURABLE MR.JUSTICE R.S.GARG

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date : 11/07/2005

ORAL JUDGMENT (Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. It appears that the respondent was awarded punishment of lowering down him to a lower post for a period of two years and recovery of Rs.45,000/- in 45 equal instalments of Rs.1,000/- each. Being aggrieved by the said order he filed Special Civil Application No.2965 of 2001. The learned Single Judge while hearing Civil Application No.7539 of 2001 stayed the operation of punishment order directing reduction in rank, but did not say anything about recovery. The said order was made on 06.07.2001. Being aggrieved by the said order the State has come in this Appeal. On 23.07.2001 a Division Bench of this Court stayed operation of the stay order and made it clear that the learned Single Judge may proceed with hearing of the matter. It is not known to anybody as to what has happened to Special Civil Application No.2965 of 2001.
2. After hearing learned counsel for the parties we are of the opinion that the order of punishment, if was not put in abeyance then the same was to take its effect immediately and within two years from the date of order of stay passed by this Court on 23.07.2001 it would take its complete effect on lapse of two years. It is almost four years from the date of interim order passed by this Court. Under the circumstances the interim order has lost its efficacy and the appeal virtually has become infructuous. Learned counsel for the appellant however, submits that since after 01.08.2001 the respondent has not reported for duty and under such circumstances the appellant is entitled to take action against him. In our opinion the said being not the subject matter of this appeal we are not required to make any observations on that. The Appeal is disposed of.
3. Consequently, Civil Application No.7539 of 2001 is disposed of. The stay granted earlier is vacated.

(R.S. Garg, J.)

(Ravi R. Tripathi, J.)

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